

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL LEAGUE
PLAYERS' CONCUSSION INJURY
LITIGATION

THIS DOCUMENT RELATES TO:

ALL ACTIONS

: No. 2:12-md-02323-AB
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MDL No. 2323

Hon. Anita B. Brody

**OPT OUT REPORT
SUBMITTED BY THE CLAIMS ADMINISTRATOR**

BrownGreer PLC ("BrownGreer"), the Claims Administrator under the proposed Class Action Settlement Agreement ("Settlement Agreement") in this matter, submits this Opt Out Report pursuant to Paragraph 4.j of the July 7, 2014 Preliminary Approval Order (Document 6084):

1. *Report by the Claims Administrator.* Paragraph 4.j of the Preliminary Approval Order directs that BrownGreer file with the Court and serve on Class Counsel and Counsel for the NFL Parties on or before November 3, 2014, a list of all persons who timely Opted Out of the Settlement Class. This Report is made pursuant to that Order and provides complete information on all Opt Out requests received, whether apparently timely or untimely, and the process used by BrownGreer to receive, review, track, and report on these materials.

2. *Settlement Class Statistics.* The Long-Form Notice was mailed to 33,984 potential Settlement Class Members, 25,060 of whom were identified as NFL Football Players

(both active and retired) and 8,924 of whom were identified as the relatives of deceased NFL Football Players.

3. Opt Out Statistics. As explained in this Report and as shown in greater detail in Exhibits 1 and 2 to this Report, out of the 33,984 known potential Settlement Class Members described in Paragraph 2 of this Report, BrownGreer received 220 Opt Out requests that appear to be timely, 14 Opt Out requests that appear to be untimely, and one Revocation of Opt Out request. These Opt Out requests are summarized in this table for quick reference:

OPT-OUT REQUESTS: SUMMARY		
A. TIMELY OPT OUT REQUESTS (See Exhibit 1)		
1.	Retired NFL Football Players	196
2.	Relatives of a Retired NFL Football Player	22
3.	Unable to Identify Settlement Class Member Type	2
4.	TOTAL	220
B. UNTIMELY OPT-OUT REQUESTS (See Exhibit 2)		
5.	Retired NFL Football Players	13
6.	Relative of a Retired NFL Football Player	1
7.	TOTAL	14
C. REVOCATION REQUEST		
8.	Retired NFL Football Player	1

Exhibits 1 and 2 to this Report identify the Settlement Class Members who submitted these materials and indicate the results of our review to assess compliance with the terms of the Settlement Agreement regarding the required content of an Opt Out request, as explained in the remainder of this Report.

4. Required Content of Opt Out Requests. Section 14.2(a) of the Settlement Agreement directed Class Members who wished to exclude themselves from the Settlement Class to submit their written requests to Opt Out to the Claims Administrator and provides that any such Opt Out request must contain these seven elements:

- (a) The statement “I wish to exclude myself from the Settlement Class in *In re National Football League Players’ Concussion Litigation*, No. 2:12-md-02323,” or substantially similar clear and unambiguous language;
- (b) The printed name of the Settlement Class Member;
- (c) The address of the Settlement Class Member;
- (d) The telephone number of the Settlement Class Member;
- (e) The date of birth of the Settlement Class Member;
- (f) A copy of the driver’s license or other government-issued identification of the Settlement Class Member; and
- (g) The dated personal signature of the Settlement Class Member.

5. Opt Out Deadline. Paragraph 4.g of the Preliminary Approval Order required that Opt Out requests must be postmarked on or before October 14, 2014.

6. Post Office Box for Receipt of Potential Opt Outs. On July 2, 2014, BrownGreer set up a P.O. Box (P.O. Box 25369, Richmond, VA 23260) to which Settlement Class Members could send their Opt Out requests. The Long-Form Notice and the official public website for the Settlement Agreement, <https://www.NFLConcussionSettlement.com>, instructed Settlement Class Members to direct their Opt Out requests to this P.O. Box. BrownGreer retrieved mail from this P.O. Box each business day. During the weeks of and following the Opt Out deadline (October 13–25, 2014), BrownGreer retrieved mail from this P.O. Box twice each business day and each Saturday.

7. ***Mail Intake.*** To create a permanent digital record of each Opt Out request, BrownGreer intake specialists scanned each piece of mail received in the P.O. Box to create a PDF image of the envelope and its contents and saved the resulting PDF to a secure network drive dedicated to this Program. BrownGreer also has retained the hard copies of all these documents in a secure storage area in one of BrownGreer's offices in Richmond, Virginia.

8. ***Claims Administrator Email Inbox.*** On August 7, 2014, BrownGreer set up an email address, ClaimsAdministrator@NFLConcussionSettlement.com, where Settlement Class Members and others could direct general questions about the Settlement Agreement and proposed Settlement Program (the "CA Inbox"). This email address appears on the public website for the Settlement Agreement. Though the Long Form Notice and the website instructed Settlement Class Members to mail their Opt Out requests to the Claims Administrator's P.O. Box, one Settlement Class Member emailed an Opt Out request to this CA Inbox.

9. ***The Notice ID for Each Class Member.*** Between October 2013 and July 2014, BrownGreer created a Master Mailing List that included all known Retired NFL Football Players and the relatives of deceased NFL Football Players who could be identified, to be used in mailing Notice of the proposed Settlement Agreement to these known Settlement Class Members. This Master Mailing List contained a total of 33,984 individuals, each of whom was assigned a unique identifying number referred to as the "Notice ID." Upon receiving an Opt Out request, BrownGreer first searched the Master Mailing List for the Settlement Class Member to determine his or her Notice ID, to ensure that we correctly identify and track each person and to avoid double-counting any person.

10. ***NFL Employment Information.*** After determining the Notice ID of a person who had sent us an Opt Out request, BrownGreer searched its database and the NFL statistics at

NFL.com to attempt to determine whether the Settlement Class Member was a Retired NFL Football Player, a relative of a Retired NFL Football Player, or someone acting in some capacity. If we could identify the person as a Retired NFL Football Player, BrownGreer recorded the names of any NFL teams for which he played and the years he played, based upon the available information. If we could identify the Settlement Class Member as a relative of a Retired NFL Football Player and we could determine the name of the player, BrownGreer recorded that player's football employment information.

11. *NFL Settlement Program Portal.* To facilitate the organization, management and access to documents and other information of the Claims Administrator relating to the Settlement Agreement, BrownGreer designed, coded, tested, implemented and hosts a secure website called the NFL Settlement Program Portal ("NFL Portal"). This internet interface allows authorized representatives of Class Counsel and Counsel for the NFL Parties to access, view, and download documents and information. Only persons authorized by BrownGreer can access the NFL Portal, and BrownGreer assigns each user a specific role that limits what documents the user may access.

12. *Review of Opt Out Requests.* BrownGreer also designed, coded, tested, implemented and hosts a customized software application to track each Opt Out request and to store information produced in the review of these requests. A team of specially trained BrownGreer reviewers examined every Opt Out request to link the document to the correct Settlement Class Member and to identify and record the Class Member's counsel and law firm, if represented. If the Settlement Class Member was not on the Notice Mailing List, we added the name to our NFL Settlement database and created a new Notice ID for him or her. We then reviewed each Opt Out request to record the attributes of the request and whether it contained the

seven elements of an Opt Out mandated by Section 14.2(a) of the Settlement Agreement and listed in Paragraph 4 of this Report.

13. *Potential Opt Outs Tracking Report.* BrownGreer created and maintained a comprehensive report tracking all Opt Out requests received, entitled the “NFL 1001-Potential Opt Outs” report. In this NFL 1001-Potential Opt Outs report, BrownGreer recorded the following data points for each Opt Out request:

- (1) Last Name: The last name of the Settlement Class Member;
- (2) First Name: The first name of the Settlement Class Member;
- (3) Middle Name or Initial: The middle name or initial of the Settlement Class Member;
- (4) Address: The street address of the Settlement Class Member;
- (5) City: The city of the Settlement Class Member’s mailing address;
- (6) State: The state of the Settlement Class Member mailing address;
- (7) Postal Code: The Zip Code or other postal code of the Settlement Class Member’s mailing address;
- (8) Phone Number: The phone number of the Settlement Class Member;
- (9) Date of Birth: The date of birth of the Settlement Class Member;
- (10) Government-Issued ID: Whether the Settlement Class Member included a copy of a government-issued ID;
- (11) Signature Type: Whether the Settlement Class Member signed his or her Opt Out request by hand, typed his or her signature, or did not provide a signature;
- (12) Signature Date: The date on which the Settlement Class Member signed the Opt Out request;
- (13) Date of Receipt: The date on which BrownGreer received the Opt Out request;

- (14) Postmark Date: The postmark date on the envelope containing the Opt Out request, or whether that the date was not present or was illegible;
- (15) Sent By: The method by which the Settlement Class Member submitted the Opt Out request (*e.g.*, by regular mail, certified mail, FedEx, or UPS);
- (16) Revocation Request: Whether the Settlement Class Member has submitted an Opt Out revocation pursuant to Section 14.2 of the Settlement Agreement, which allows such revocations until the Final Approval Date;
- (17) Law Firm Name: The name of the law firm representing the Settlement Class Member, if provided;
- (18) On the Mailing List: Whether the Settlement Class Member appeared on the Master Mailing List;
- (19) Notice ID: The Notice ID of the Settlement Class Member, if he or she appeared on the Master Mailing List;
- (20) NFL Player: The Name of the Retired NFL Football Player related to the Settlement Class Member, if the person could be identified as a relative of a player;
- (21) Relationship to Player: The relationship of the Settlement Class Member to an Retired NFL Football Player, if known;
- (22) Player Deceased or Living: Whether the Retired NFL Football Player related to the Settlement Class Member is deceased or living;
- (23) Potential Opt Out Received from Player/Estate: Whether the Opt Out request was from a Retired NFL Football Player or from the estate of a deceased NFL Player;
- (24) Team(s): The names of the team, or teams, that employed the Retired NFL Football Player during his NFL career, as best we could determine from available data; and
- (25) Seasons: The years the Retired NFL Football Player played for the NFL, as best we could determine from available data.

14. *Timeliness of the Opt Out Requests.* BrownGreer also tracked whether an Opt Out request appeared to be timely or untimely under the directive in Paragraph 4.g of the

Preliminary Approval Order that such requests be postmarked on or before October 14, 2014.

BrownGreer applied the following rules to measure whether an Opt Out request was timely:

- (a) If the postmark date is present and legible, that date controls timeliness.
- (b) If there is no postmark date or an apparent date is illegible, the date of BrownGreer's receipt of the request at the P.O. Box is used to determine timeliness.
- (c) If the Settlement Class Member sent the Opt Out request by email to the CA Inbox, the date the Class Member sent the email is used to determine timeliness.
- (d) If the Class Member sent the Opt Out request by a carrier service the date the Class Member placed the document in the hands of the carrier is used to determine timeliness, for that date serves as the functional equivalent of the postmark date that would appear on a mailed document.

15. *Reporting Opt Out Requests to Class Counsel and Counsel for the NFL Parties.*

Section 14.2(a) of the Settlement Agreement requires the Claims Administrator to provide copies of all Opt Out requests to Class Counsel and Counsel for the NFL Parties within seven days of receipt. BrownGreer actually sent copies of Opt Out requests to Class Counsel and Counsel for the NFL Parties each business day and within one business day of receipt, along with the NFL 1001-Potential Opt Outs report, rather than using the entire seven days allowed for this purpose. During the period immediately surrounding the Opt Out deadline (October 13–25, 2014), BrownGreer sent copies of Opt Out requests and the NFL 1001-Potential Opt Outs report to Class Counsel and Counsel for the NFL Parties twice daily.

16. *Revocation of Opt Out Requests.* Section 14.2(c) of the Settlement Agreement directed that any Class Member who wished to revoke his or her Opt Out request to submit a Revocation of Opt Out request to Class Counsel and Counsel for the NFL Parties. One Class Member submitted such a Revocation of Opt Out request. Class Counsel and Counsel for the NFL Parties forwarded that Revocation of Opt Out request to BrownGreer.

17. *Reports Attached as Exhibit 1 and Exhibit 2.* Exhibit 1 to this Report identifies the Opt Out requests that appear to be timely. Exhibit 2 to this Report identifies the Opt Out requests that appear to be untimely. We have divided the lists into sections by Class Member Type (Retired NFL Football Players, Relatives of Retired NFL Football Players, and Unable to Identify Settlement Class Member Type). In these Exhibits:

- (a) Column 1 provides the Settlement Class Member's full name. We have listed these persons within each section in alphabetical order by last name.
- (b) Column 2 indicates the Settlement Class Member Type, based on our research. In the Relatives of a Retired NFL Player sections of the Exhibits, we have also included the name of the Retired NFL Football Player to whom the Settlement Class Member appears to be related.
- (c) Columns 3-8 reflect the results of our review of the materials to assess the presence of the elements required by Section 14.2(a) of the Settlement Agreement and listed in Paragraph 4 of this Report.
- (d) Column 9 shows the date we used to measure the timeliness of an Opt Out request. Where Column 9 shows only a date, it means that we received the material by mail with a postmark. In those instances, the date shown is the postmark date. If we received the Opt Out request by some other means or if the postmark was not present, Column 9 describes the method of receipt and then shows the date that controls the timeliness of the Opt Out under the rules of decision set out in Paragraph 14 of this Report.

Respectfully submitted,

CLAIMS ADMINISTRATOR

By: /s/ Orran L. Brown

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Date: November 3, 2014

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing NFL Concussion Settlement: Opt Out Report was filed electronically this 3rd day of November, 2014, and was served electronically upon Class Counsel, counsel for the NFL Parties and all counsel of record by the United States District Court for the Eastern District of Pennsylvania's electronic filing system.

/s/ Orran L. Brown

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